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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,061	06/24/2003	John Sirowatka	71198-0063	1060
20915	7590	10/11/2005	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			AMIRI, NAHID	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*Office Action Summary*

Application No.

10/604,061

Applicant(s)

SIROWATKA, JOHN

Examiner

Nahid Amiri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 10-35 and 37-87 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 70-79 and 81-87 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 8, 10, 37 and 80 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 7, 11-35 and 38-69 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>exhibit</u> .                          |

## **DETAILED ACTION**

### ***Response to RCE***

This office action is in response to the amendment/request for continued examination (RCE) dated 21 July 2005. The applicant's submissions are not sufficient to overcome all of the previous grounds of rejection. Accordingly, claims 1-8, 10-35 and 37-87 are pending, and claim 9 and 36 are canceled.

### ***Drawings***

The objection to drawing as indicated in previous office action withdrawn based on Applicant's remark.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 10, 37 and 80 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear if applicant is claiming a combination of hinge plate or connector assembly with truss members, since the preamble of claims 1, 10 drawn only to a subcombination of hinge plate or connector assembly, wherein the truss members are not positively claimed. Therefore, examiner will treat the claims as subcombination. In regard to claim 80, lines 2 and 4 "the connector member", it is not clear which "connector member" applicant referring to? With respect to claim 37, the descriptive of the connections between the first and second connectors with the first and second truss members are not accurate, because the first and second connector members are pivotally connected to the connector block not to the

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first and second truss member. Therefore, the suggested changes would be "mounted" in lines 8 and 10, change to --mounting the connector block--.

Claim 80 recites the limitation "the inner vertical surface of the second connector member" in line 3. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-3, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,094,059 Ganescu.**

In regard to claims 1-3, 6 and 8: Ganescu discloses a hinge building truss (Fig. 1) having a hinge plate (12) with first and second connectors (34, 36) an intermediate member (22), the first and second connectors (34, 36) are planar members, the first, second, and intermediate members have a mounting portion, as well as a pivotally mounted hinge portion (18, 20), and the mounting portion on the first and second connector comprises a nail plate, wherein the first and second connectors (34, 36) are pivotally mounted to the hinge portion on the first and second ends of the intermediate member (22), wherein at least one mounting portion on the first and second connectors (34, 36) comprising a nail plate, and (Fig. 8) wherein the first, second and intermediate connectors (34, 36 and 22) comprising roll formed hinge portions.

**Claim 10 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 3,423,898 Tracy et al.**

In regard to claim 10: Tracy et al., disclose a connector for connecting a first truss member to second truss member (Fig. 2) including a connector block (14) having a first end and a second end opposite from the first end, a first and second connector members (28) extending from the first

end and second end of connector block (14) which pivotally attached thereto at pivot point P (see attachment), and first and second connectors are interconnected by intermediate member (20).

*Allowable Subject Matter*

Claims 4, 5, 7, 11-35 and 38-69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

In regard to claims 4, 5 and 7 the prior art does not show or suggest at least one mounting portion on the intermediate member comprises a nail plate. In regard to claim 11-27, the first connector member hingedly connected to the intermediate member. In regard to claims 28-35, the connector block has a recessed portion adapted to receive a portion of the second truss member when the second truss member is positioned in a folded position with respect tot the connector block.

Claims 37 and 80 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

In regard to claim 37, the prior art does not show or suggest a pivotable interconnection between the first truss member and the second truss member, wherein the first truss member has an inner vertical surface and the connector block has an outer vertical surface, and wherein the inner vertical surface of the first truss member and the outer vertical surface of the connector block come into abutment when the first truss member is moved to a fully unfolded position with respect to the connector block.

Claims 70-79 and 81-87 are allowed.

In regard to claims 70-79 and 81-87, the prior art does not show or suggest the first and second connector member mounted to the first and second truss member and pivotally mounted to the intermediate member, wherein the first truss member can be folded reversely atop the second truss member by pivoting the first and second truss members abut the respective pivotal

mounting to the intermediate member and the connector block provides spacing for such folding to occur.

*Response to Arguments*

Applicant's arguments filed 29 December 2004 in regard to claims 1-3, 6, 8 and 10 have been fully considered but they are not persuasive.

The indicated allowability of claims 37-69 are withdrawn based on rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Applicant's arguments, filed 14 April 2005, with respect to claims 70 and 71 have been fully considered and are persuasive. The rejection of claims 70 and 71 has been withdrawn.

Applicant argues that claims 1 calls for a hinge plate for integrally and pivotably connecting to first and second truss member, and "an intermediate member having a planar member having at least one mounting portion thereon", wherein Ganescu '059 completely devoid of a "mounting portion" thereon that is suitable for attachment to an adjacent structural member, and Ganescu '059 shows that there is no need for a mounting portion of any kind of the central plate 22, because the central plate is made to span a gap between a pair of truss members. In regard to claim 10, Applicant argues Tracy et al., '898 is non-analogous prior art, wherein the Applicant's invention related to a double hinge plate which is used to reversely-pivot a first truss member with respect to a second truss member so that a preassembled truss can place in a collapsed state.

With respect to Applicant's argument regarding claims 1 and 10 examiner responses that Applicant argues over some limitations which he does not positively claimed such as first and second truss member. With respect to claim 1, because intermediate member (12) of Ganescu '059 does not need for a mounting portion of any kind it does not mean the intermediate member (12) of Ganescu '059 is not capable of mounting on another structure member. In response to Applicant's argument regarding claim 10 of nonanalogous art, it has been held that the determination that a reference is from a nonanalogous art is twofold. First, we decide if the reference is within the field of the inventor's endeavor. If it is not, we proceed to determine


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whether the reference is reasonably pertinent to the particular problem with which the inventor was involved. *In re Wood*, 202 USPQ 171, 174. In this case, Tracy et al., '898 clearly show all the applicant's structural claimed limitation of having a connector block (14), first and second connector members (28) which attached to first and second end of the connector block (14), the argument in regard to first and second truss members are irrelevant since the truss member are not passivity claimed.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (571) 272-8113. The examiner can normally be reached on 8:30-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Nahid Amiri  
Examiner  
Art Unit 3679  
September 26, 2005



DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

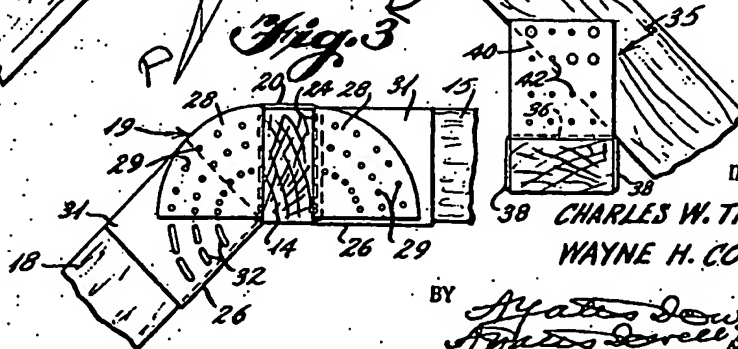
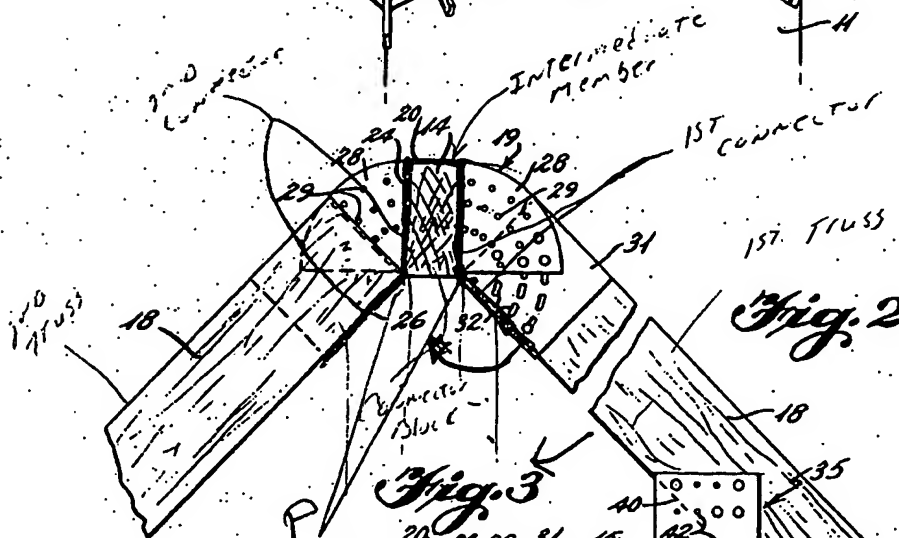
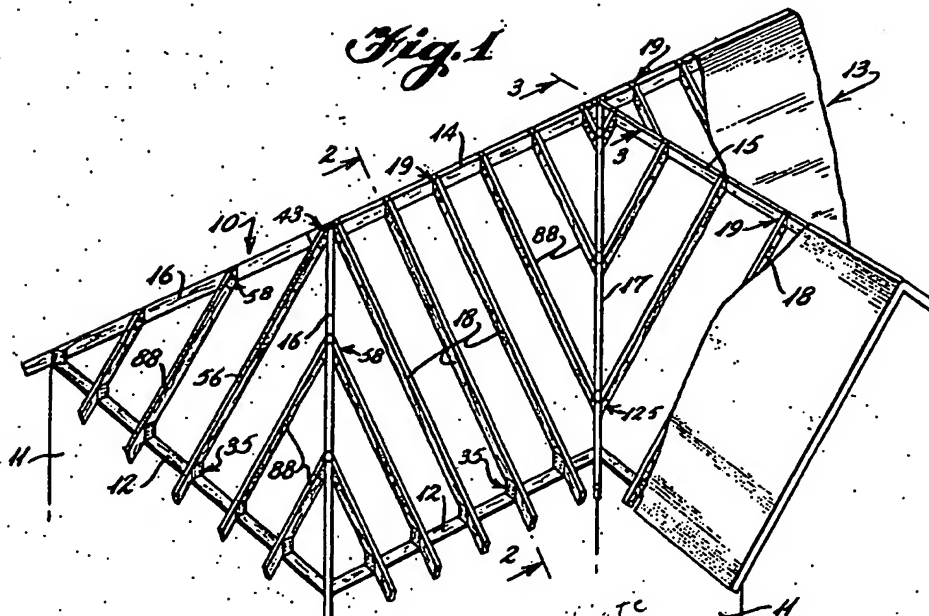
**Jan. 28, 1969**

**C. W. TRACY ET AL**  
**ROOF FRAMING SYSTEM**

**3,423,898**

Filed July 28, 1966

Sheet 1 of 3



## INVENTORS

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